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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

FREDDIE RIVAS,

Plaintiff,

v.

OSG SHIP MANAGEMENT, INC.,

Defendant.

Case No. _____

COMPLAINT

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND

Plaintiff, Freddie Rivas, files this Complaint against OSG Ship Management, Inc. and would respectfully show the following:

PARTIES

Freddie Rivas ("Mr. Rivas") is a resident and citizen of the State of Texas.

Defendant, OSG Ship Management, Inc. ("OSG"), upon information and belief, is a Florida corporation with a principal place of business in Florida. OSG conducts business in

1 the Northern District of California, and employs individuals like Mr. Rivas in the Northern
2 District of California. Service of process may be effected on OSG by service to its registered
3 agent, **Corporation Service Company** at its address, **1201 Hays Street, Tallahassee,**
4 **Florida 32301-2525.**

5 **VENUE & JURISDICTION**

6
7 Diversity jurisdiction herein is conferred by 28 U.S.C. §1332. Plaintiff is a citizen
8 of Texas. OSG is a citizen of Florida (incorporation and Principal Place of Business). The
9 amount in controversy exceeds \$75,000. In addition, jurisdiction is proper under the Jones
10 Act, 46 U.S.C. § 30104, the general maritime law, and pursuant to the “saving to suitors”
11 clause, 28 U.S.C. § 1333.
12

13 Venue is properly laid in the Federal District Court for the Northern District of
14 California, Oakland Division, as a substantial part of the events or omissions giving rise to
15 the cause of action herein occurred in Contra Costa County or in the San Francisco Bay.
16 Defendants also maintains representatives and conduct business in Contra Costa County.
17

18 **FACTUAL BACKGROUND**

19 This case is brought under the Jones Act, 46 U.S.C. § 688, *et seq.*, and the general
20 maritime law of the United States of America. This suit is necessary to collect a legal debt
21 and damages due and owing Mr. Rivas due to the negligence of Mr. Rivas’s Jones Act
22 employer, OSG Ship Management, Inc., and the negligence and unseaworthiness of OSG’s
23 vessel known as the Overseas Boston, and its crew, directly contributing to serious injuries
24 to Mr. Rivas on or about October 25, 2022 (“the Incident in Question”).
25

26
27 More specifically, on or about that date, Mr. Rivas was working aboard the Overseas
28 Boston after it embarked on a trip transporting cargo from Richmond, California to Cherry

1 Pointe, Washington. The Overseas Boston was carrying/transporting hazardous chemicals,
2 which needed to be ventilated. Mr. Rivas and his crewmates were exposed to these
3 chemicals without forewarning from the Captain, managers, or crew of Defendant, and Mr.
4 Rivas and his crewmates were not given proper personal protective equipment (“PPE”) or
5 a properly ventilated work environment. Mr. Rivas attempted to escape the toxic fumes by
6 returning to his living quarters only to realize the toxic fumes were coming in due to an
7 A/C unit that was circulating fumes into it. Because of this, Mr. Rivas was contaminated
8 with dangerous chemicals which led to him receiving a complete loss of smell and fluid
9 buildup in his lungs. Still today, Mr. Rivas does not have a sense of smell and has sustained
10 permanent damage to his nose.
11

12
13 In addition, on said voyage, Mr. Rivas worked in excess of 14 hours on several
14 occasions. Mr. Rivas was required to work these hours without appropriate breaks and an
15 inadequate crew in size and training, which created unsafe work conditions. Furthermore,
16 OSG, by and through its managers and crewmembers, were responsible for providing
17 nonskid surfacing, including by spray/applying proper nonskid in order to prevent workers
18 from slipping and falling on the Overseas Boston. OSG failed to do so. Because of the
19 foregoing conditions, including prior contamination, overworking/improper crewing, and
20 improperly maintained walkways, Mr. Rivas slipped and fell on the bow of the Overseas
21 Boston. As a result, Mr. Rivas has suffered severe injuries to his back, torso, and body, due
22 to the direct negligence of OSG and its crew.
23

24
25 As a tankerman, Mr. Rivas was employed by OSG and regularly assigned to work
26 in its fleet of vessels of owned and chartered vessels engaged in vessel operations. On
27 information and belief, OSG was the operator and owner *pro hac vice* of the Overseas
28

1 Boston and was responsible for its dangerous and unseaworthy conditions, which was a
2 legal cause of Mr. Rivas's injuries. The dangerous and defective condition of the vessel
3 violated applicable laws and regulations of the United States of America for vessels, and
4 accordingly OSG is liable for negligence, negligence per se, and in strict liability.

5 At the time of his injuries, Mr. Rivas was a Jones Act seaman more or less
6 permanently assigned to the Overseas Boston and/or fleet of vessels of his employer, OSG,
7 and his work contributed to the ultimate mission of the Overseas Boston in OSG's fleet.
8 Mr. Rivas would show that nothing he did or failed to do on the occasion in question caused
9 or in any way contributed to cause his injuries. To the contrary, the occurrence in which
10 Mr. Rivas was injured was proximately caused by the negligence, as that term is understood
11 in law, on the part of OSG.
12

13
14 **■ FIRST CAUSE OF ACTION—JONES ACT NEGLIGENCE ■**
15

16 OSG Services Inc., by and through its employees and officers, was negligent in
17 creating the dangerous conditions that proximately resulted in Mr. Rivas' injuries and in failing
18 to provide adequate crew and equipment, failing to supervise and train the crew, and in other
19 respects. Under the circumstances presented by OSG's violation of law, OSG is also liable for
20 negligence per se.
21

22 **■ SECOND CAUSE OF ACTION—UNSEAWORTHINESS ■**

23 The Overseas Boston was a vessel for which OSG owed Mr. Rivas a duty of
24 seaworthiness as a seaman. OSG breached that duty because the Overseas Boston was not
25 reasonably fit for its intended purposes, was dangerous, not reasonably safe, and unseaworthy.
26 This unseaworthiness included OSG's failure to provide adequate crew and equipment, failing
27 to supervise and train the crew, and in other respects. The unseaworthiness of the Overseas
28

1 Boston was a factual and legal cause of Mr. Rivas' damages, as alleged above.

2 **■ DAMAGES ■**

3 As a direct and proximate result of OSG's conduct, Mr. Rivas sustained bodily injuries
4 to his knee, shoulder, back, and torso. Because of the nature and severity of the injuries
5 sustained, Mr. Rivas has suffered physical pain and mental anguish, and of reasonable
6 probability will continue to suffer physical pain and mental anguish in the future as he
7 recovers. Mr. Rivas continues to receive medical treatment for his shoulder and back with little
8 improvement, and injuries and lost earnings have contributed to his mental anguish. At the
9 time of the incident in question, Mr. Rivas was a healthy, able-bodied workingman who
10 sustained and will continue to suffer as a result of the incident physical impairment and
11 disfigurement.
12

13
14 Because of the nature and severity of the injuries he has sustained, Mr. Rivas has
15 required medical treatment, including knee surgery and shoulder surgery, and in reasonable
16 probability will require other and additional medical treatment or procedures in the future.
17 Since the time of his surgeries, Mr. Rivas attended physical therapy, and Plaintiff will rely
18 upon his physicians to determine the specific future treatments that are necessary to continue
19 to address his injuries. Charges for such medical treatment that have been made in the past and
20 those which of reasonable probability will be made in the future have been and will be
21 reasonable charges made necessary by the occurrence in question.
22

23
24 Mr. Rivas is entitled to recovery of pre-judgment interest in accordance with law and
25 equity as part of his damages herein, and Mr. Rivas here and now specifically sues for recovery
26 of pre-judgment interest from the date of the incident made the basis of this suit until the date
27 of the judgment herein, as provided by law and equity, under the applicable provisions of the
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laws of the State of California and the United States of America.

PRAYER FOR RELIEF

Plaintiff respectfully prays that the court enter judgment entered against Defendant and for an award of damages as follows:

a. For compensatory damages for physical pain and suffering, mental and emotional distress, physical impairment and disfigurement, past and future loss of earning capacity, past and future medical costs/bills, and all other general damages alleged and proved at the time of trial;

b. Recovery of expert witness fees;

c. Recovery of attorney fees;

d. Taxable costs incurred herein;

e. Pre- and post-judgment interest; and

f. For all such other and further relief, at law or in equity, to which Mr. Rivas may be entitled.

Dated this 15th day of January, 2024.

Respectfully submitted,

DOYLE DENNIS LLP

A handwritten signature in blue ink, appearing to read "Jeffrey Avery", is written over a horizontal line.

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JURY DEMAND

Plaintiff Freddie Rivas hereby demand a trial by jury, a right enshrined in the Constitution of the United States of America and of the State of California and preserved by the sacrifices of many.



Jeffrey Avery